IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5705 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MORARJIBHAI R TATARIA

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 5705 of 1988
MR PARESH M DAVE for Petitioner No. 1-5
MS DHARMISHTA RAVAL for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 14/07/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this petition under Article 226 of the Constitution, the petitioners had challenged the order dated 31.5.1988 (Annexure "E") passed by the Collector of Customs (Appeals), Bombay confirming the order dated 14.5.1987 passed by the Deputy Collector of Customs,

Kandla (Kutch) for confiscation of certain items like VCR, VCP, cassette players etc.

2. When the petition was admitted on 14.10.1988, this Court had issued certain interim directions requiring the third respondent, the Deputy Collector of Customs, Kandla, to give the petitioners an option to pay fine in lieu of the items at Sr.Nos. 1, 2 and 7 and also recording that item at Sr.No. 3 Hitachi VCR was a duty paid item and, therefore, the same was required to be returned to the owners.

3. When the petition has reached hearing today, Mr Paresh M Dave, learned counsel for the petitioners states that the petitioners had challenged the said order of the Collector of Customs before the CEGAT, but the learned counsel does not have instructions about subsequent developments during pendency of the petition over the last one decade.

4. Since the order challenged in this petition had already been subjected to challenge in appeal before the CEGAT, the petitioners having availed of the alternative remedy, this petition would not survive. This petition is accordingly dismissed on the ground that the petitioners did have an alternative remedy which has already been availed of.

Rule is discharged with no order as to costs.

Liberty to apply in case of difficulty.

(M.S. Shah, J.) (D.A. Mehta, J.)

sundar/-